

# Notice of Allowability

## Application No.

09/559,622

## Examiner

Joseph T. Weitach

## Applicant(s)

RANGANATHAN ET AL.

## Art Unit

1632

### -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 29, 2004.
2. ☒ The allowed claim(s) is/are 9, 11, 20, 21, 24, 25, 27, 28 and 34-36.
3. ☒ The drawings filed on 27 April 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____  |

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### **DETAILED ACTION**

This application filed April 27, 2000, claims benefit to provisional application 60/131,149, filed April 27, 1999.

Applicants' amendment filed March 29, 2004, has been received and entered. Claims 1-8, 10, 12-19, 22, 23, 26, 29-33 have been canceled. Claims 9, 11, 20 and 21 have been amended. Claims 34-36 have been added. Claims 1-25, 27, 28, 30-33 are pending.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

Noting the amendments to the claims Applicants argue that the present claims fall clearly within the Written Description Guidelines. Noting that the hybridization conditions now recited in the claims are stringent conditions, Applicants argue that the skilled artisan would not expect the sequences disclosed by Sze and Blakely to hybridize, in particular because they are sequences that do not encode a serotonin-gated anion channel as set forth in SEQ ID NO: 2.

Upon review of the amended claims Examiner agrees with Applicants' arguments that the pending claims are similar to those set forth in Example 9 of the Written Description Guidelines and that by setting forth both functional and structural limitations the claims fulfill the written description requirement of 35 USC 112, first paragraph. Finally, the amendment to claim 11 has addressed the basis of the rejection set forth under 35 USC 112, second paragraph.

The claims are free of the art of record because the art fails to teach the specific methods instantly claimed. At the time of filing serotonin-gated anion channels were known to exist

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based on observations of anion flow in cell based assays, however the specific sequence set forth in SEQ ID NO: 2 was not described, therefore the use of said sequence for obtaining other related sequences would not be anticipated or obvious. In addition while the art of record teaches that serotonin gated anion receptors were known and assayed, in each of the references the activity of a serotonin gated receptor assayed is an endogenously expressed receptor, not one produced by a heterologous polynucleotide. Further, the assay is performed in the context of a cell or animal model and not with a purified protein as required in claim 11.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at (571) 272-0734.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Woitach

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JOSEPH T. WOITACH  
PATENT EXAMINER